REMARKS

The present claims are drawn to methods for selecting a treatment for a patient suffering from a condition or disease. The claimed methods include determining whether cells of the patient contain certain variances in the methylenetetrahydrofolate reductase gene.

Rejections Under 35 U.S.C. §112, second paragraph

The Examiner rejected claims 122 and 123 as indefinite for failing to include paragraph (d). Applicant has amended claims 122 and 123 to correctly identify the paragraphs in each claim. Applicant respectfully request that this rejection be withdrawn.

Rejections Under 35 U.S.C. §102(b)

The Examiner rejected claim 122 as allegedly anticipated by Goyette et al. According the Examiner Goyette et al. discloses a method for selecting a treatment entailing determining whether the cells of a patient have a C at a position in the methylenetetrahydrofolate reductase mRNA corresponding to nucleotide 120 of SEQ ID NO:1 of the present application. Applicant has amended claim 122 to remove the reference to the C variance at nucleotide 120 of SEQ ID NO:1. In view of the forgoing, Applicant respectfully requests that this rejection be withdrawn.

Conclusion

Attached is a marked-up version of the changes being made by the current amendment. Applicant asks that all claims be allowed. Enclosed is a Petition for Extension of Time and a Notice of Appeal with the appropriate fees. Please apply any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

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Anita L. Meiklejohn, Ph.D.
Reg. No. 35,283

Fish & Richardson P.C.
225 Franklin Street
Boston, Massachusetts 02110-2804
Telephone: (617) 542-5070
Facsimile: (617) 542-8906

Version with markings to show changes made

In the claims:

Claims 122 and 123 have been amended as follows:

122. A method for selecting a treatment for a patient suffering from a condition or disease, comprising:

determining whether cells of the patient contain at least one variance in the methylenetetrahydrofolate reductase gene, wherein the presence or the absence of the variance in the gene is indicative of the effectiveness of said treatment for the condition or disease,

wherein the variance is selected from the group consisting of:

(a) a variance that causes a G to be present at nucleotide 464 of the mRNA (SEQ ID NO:1) encoded by the methylenetetrahydrofolate reductase gene;

(b) a variance that causes a U to be present at nucleotide 519 of the mRNA (SEQ ID NO:1) encoded by the methylenetetrahydrofolate reductase gene;

(c) a variance that causes a C to be present at nucleotide 1059 of the mRNA (SEQ ID NO:1) encoded by the methylenetetrahydrofolate reductase gene;

[(e)] (d) a variance that causes an A to be present at nucleotide 1784 of the mRNA (SEQ ID NO:1) encoded by the methylenetetrahydrofolate reductase gene; and

[(f) a variance that causes an C to be present at nucleotide 120 of the mRNA (SEQ ID NO:1) encoded by the methylenetetrahydrofolate reductase gene].

123. A method for selecting a treatment for a patient suffering from a condition or disease, comprising:

determining whether cells of the patient contain at least two variances in the methylenetetrahydrofolate reductase gene, wherein the presence or the absence of the variance in the gene is indicative of the effectiveness of said treatment for the condition or disease,

wherein the two variances are selected from the group consisting of:

(a) a variance that causes a G to be present at nucleotide 464 of the mRNA (SEQ ID NO:1) encoded by the methylenetetrahydrofolate reductase gene;

(b) a variance that causes a U to be present at nucleotide 519 of the mRNA (SEQ ID NO:1) encoded by the methylenetetrahydrofolate reductase gene;

(c) a variance that causes a C to be present at nucleotide 1059 of the mRNA (SEQ ID NO:1) encoded by the methylenetetrahydrofolate reductase gene;

[(e)] (d) a variance that causes an A to be present at nucleotide 1784 of the mRNA (SEQ ID NO:1) encoded by the methylenetetrahydrofolate reductase gene; and

[(f)] (e) a variance that causes an C to be present at nucleotide 120 of the mRNA (SEQ ID NO:1) encoded by the methylenetetrahydrofolate reductase gene.

In the abstract:

The abstract has been deleted and replaced with a new abstract.